EVERY TEXAN

Formerly Center for Public Policy Priorities

To: House Committee on Public Health

Submitted via e-mail to PublicHealth@house.texas.gov

From:
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Every Texan (formerly Center for Public Policy Priorities) appreciates the opportunity to respond to the Request for Information from the House Committee on Public Health. We focus on policies that will enable Texans of all backgrounds to thrive. The Benedictine Sisters of Boerne, Texas, founded Every Texan (formerly CPPP) in 1985 to advance public policy solutions for expanding access to health care. We became an independent, tax-exempt organization in 1999. Today, we prioritize policies that will measurably improve equity in and access to health care, food security, education, and financial security. We are based in Austin, Texas, and work statewide.

Topics: This document addresses Interim Charge #3. Our comments focus on **"Identify gaps in the continuum of care for individuals with disabilities and challenges for those providing care to them."** As requested, response to other charges will be submitted in separate documents.

Interim Charge #3:

Access to behavioral health services is impaired by significant barriers for Texans with disabilities and frail seniors who rely on personal attendant and home health care to survive. Every Texan (formerly Center for Public Policy Priorities) calls the committee members' attention to the confusing and uneven range of payment levels, and the methods used to set pay rates for Texas Medicaid providers. This results from the absence of federal "floor" standards governing how much state legislatures direct their Medicaid programs to pay most providers. Over the last three decades, the Texas Legislature has authorized or directed modernization of rate methods for some provider types (e.g., nursing facilities), and allowed rates for some provider types' to reflect a portion of costs (e.g., inpatient hospital care). For most medical care or mental health care professionals (including medical doctors), and for personal attendant care, regular inflation updates to rates ceased in the 1990s and were never resumed as a practice. In contrast, Medicaid Managed Care health plans ("MCOs") are allowed to cover all costs and report over half a billion in net annual profits, even after expenses and profit sharing with the state are taken into account.

One of the outcomes associated with the uneven coverage of costs being covered by Texas Medicaid reimbursements across different provider types is that the frontline providers who provide basic care that can prevent expensive hospitalizations or worsening of disabilities have the lowest economic incentives to serve Medicaid enrollees. Access to qualified and safe attendant care for vulnerable Texans with disabilities and frail elders is the worst-case example of this unintended consequence.

HHSC does not routinely report the numbers of Texas Medicaid enrollees annually who receive attendant services in Texas, but disability advocates estimate the number at over 178,000 per year. Personal attendants

are the lowest-paid providers in Texas Medicaid; the 2021-2022 HHS Consolidated budget (see page 164, https://hhs.texas.gov/sites/default/files/documents/about-hhs/budget-planning/consolidated-budget-request-2020-2021.pdf) documented that 2018 wages ranged from $8 to $10.11 per hour. These positions do not include health care coverage benefits, sick leave, or vacations for the workers.

The Legislature appropriated $87 million to add to attendants' paychecks in 2020- 2021, bringing the lowest rate paid to $8.11 per hour, or just 86 cents per hour above the federal minimum wage. As members of this committee are aware, even in the depressed economic conditions of the 2020 COVID-19 pandemic, fast-food restaurants and big-box stores are offering $15 per hour and higher (plus benefits in some cases), with the result that enrollees with disabilities and frail seniors are competing—at a substantial disadvantage—with those industries for attendant care.

Inadequate Access to PPE for enrollees with disabilities and frail seniors using Home Health and Personal Attendant Services

The Committee and HHSC must ensure that home health workers and personal attendants for elders and disabled have unimpaired access to PPE. Disability advocacy experts in Texas have noted that the current barriers are worst for participants who use **consumer-directed services**—who hire and manage their own attendants—who are now in a position of not being able to access or fund PPE necessary to keep themselves and employees safe. This puts them at risk for COVID-19 and other infections, and also at risk of being held liable for not having a safe workplace in their homes.

Texas Medicaid does not have a current category to allow the disabled individual or the attendant to bill for PPE, nor does it allow to use existing funds to purchase PPE. It cannot be purchased as an adaptive aid under the Medicaid waivers, because it is not considered durable medical equipment. Disability advocates warn that inadequate access to PPE could be the reason someone with a disability fails at community living, and Texas policy must correct this bias, especially since entering into congregate living raises the risk of exposure and death exponentially.

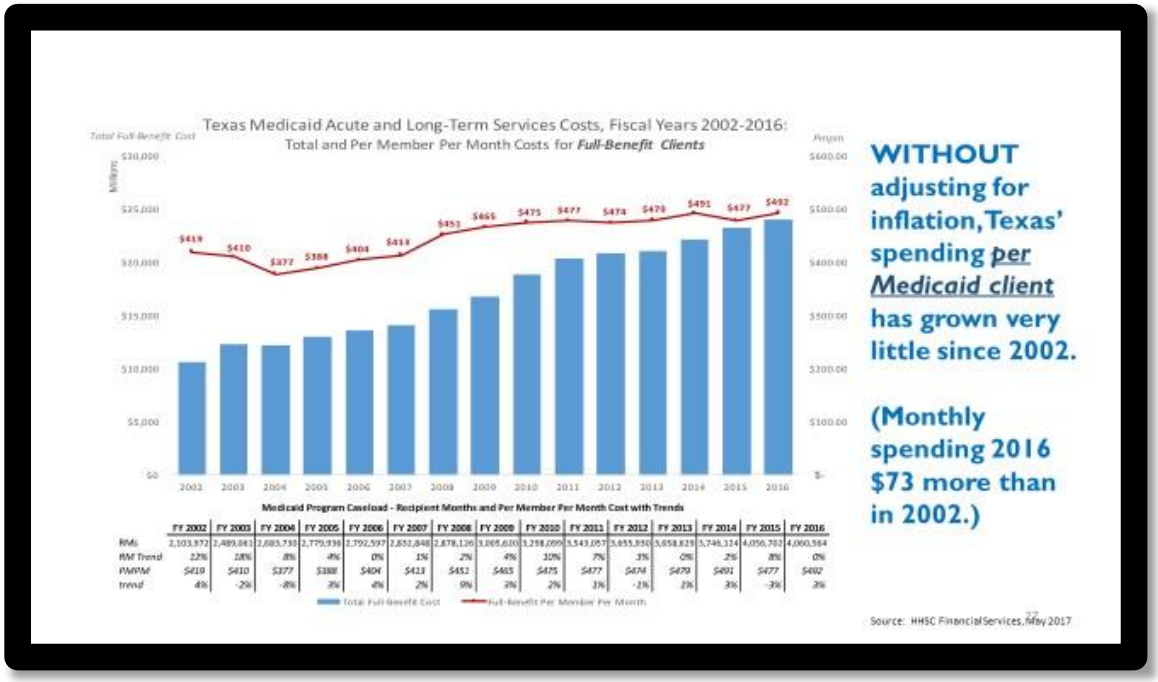
Every Texan commends the Speaker and House for including charges related to access for Texans with disabilities, and urges the Committee and the body to prioritize continued increases to attendant wages, with a goal of reaching the $15 per hour floor recommended by virtually every Texas organization representing seniors and Texans with disabilities.

Medicaid cost containment efforts.

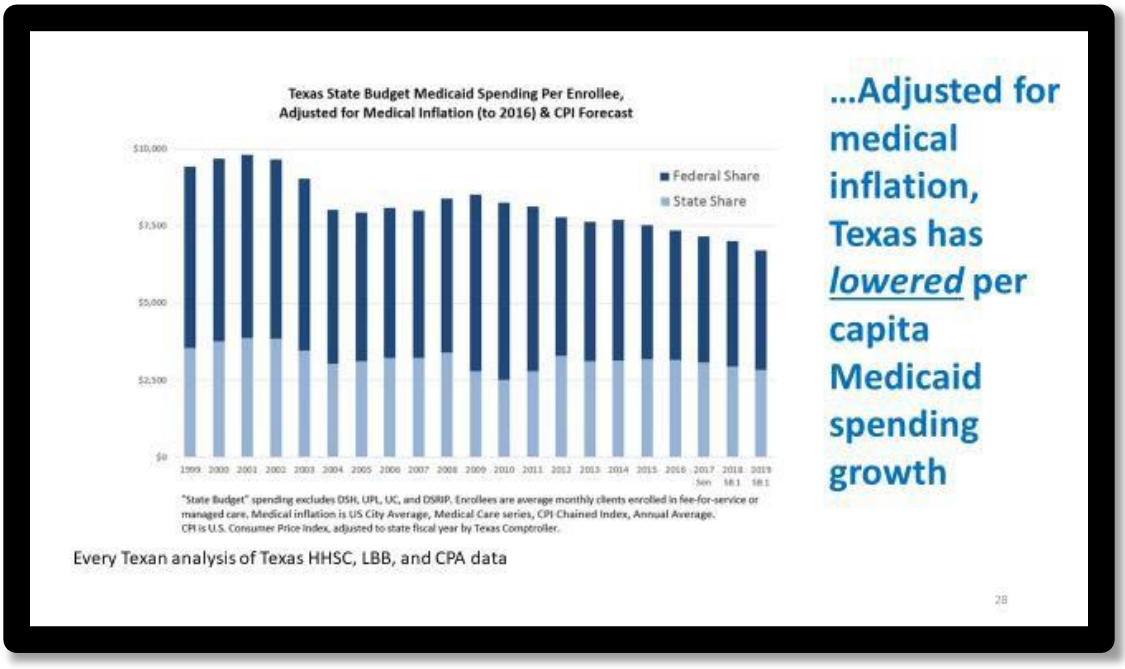
A key factor for consideration by the this Committee is that the Texas Legislature has aggressively worked to contain and reduce Medicaid per-enrollee costs. The first graphic below is from a Texas Health and Human Services Commission presentation in May 2017; the Legislative Budget Board has also produced similar analyses. The growth in monthly per-enrollee cost from 2002 to 2016 was $73, which is less than medical inflation for that period.

As the second graphic below illustrates, when adjusted for inflation (medical inflation is U.S. City Average, Medical Care series, CPI-U, Annual Average) **the Legislature has adopted policies and appropriations that have actually reduced Texas Medicaid spending per enrollee** (Every Texan analysis of Texas HHSC, LBB, and CPA data).

Put another way, all of **the increase in Texas G.R. spending on Medicaid in the last two decades has been related to population and enrollment growth, and not due to runaway per-capita spending.** The Legislature must take care to ensure that policy changes initiated in pursuit of sometime-arbitrary spending reduction targets does not result in cutting already-lean benefits per client to levels that can cause harm and even increase overall costs.

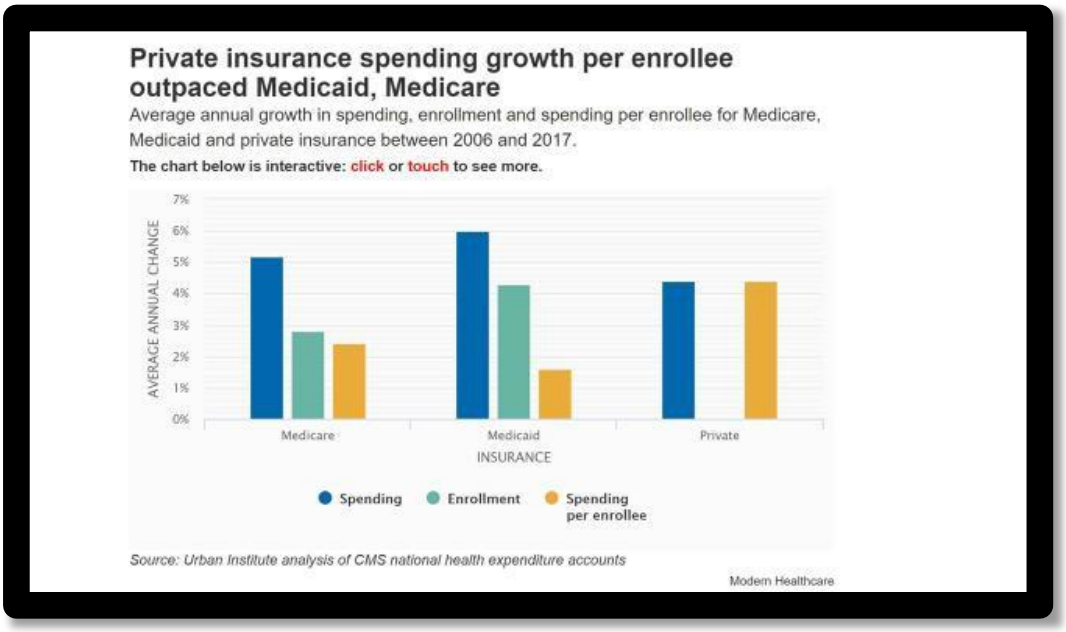


Examples have included the 2003 Legislative elimination of eyeglasses, hearing aids, mental health services from non-physicians, and podiatry for all adults on Texas Medicaid therapies, and the 2011 cuts to pediatric therapy payments that interrupted care for many children with special needs.



As the final graphic illustrates, Medicaid's national per-enrollee annual growth rate is substantially lower than for either Medicare or for private insurance.

As noted in the comments above related to attendant care access, Texas Medicaid payment rates are not logically constructed to meet the needs for primary care or front-line essential workers. In this public health and



economic emergency, The Texas Legislature and our Texas delegation in Congress should press for the strongest possible package of Medicaid Federal Medical Assistance percentage (FMAP) relief, use the Economic Stabilization Fund, and pursue additional revenue as needed to fill gaps that result in significant part from the compounding effects of successive state revenue cuts enacted without adequate foresight for the long-term fiscal needs of all Texans. No aspect of Texas Medicaid—neither eligibility, benefits, nor provider payments—should face a cut precisely when Texans need help more than ever.

** Texas is projected to have already received an additional $2 billion in FMAP relief under the March 2020 FFCRA as of the end of September 2020, and that total would grow to $4.8 billion in federal matching funds if the federal PHE were extended through September 2021.*

Respectfully,

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Social justice requires public policy.

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